

Internal Revenue Service

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Person To Contact:

, ID No.
Telephone Number:

Refer Reply To:
CC:PSI:B02
PLR-140573-08
Date:
July 20, 2009

X =

Y =

Z =

Successor-in-
interest =

Country =

=

D1 =

D2 =

Year =

Dear :

This is in response to a letter dated September 10, 2008, submitted by X requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to file an election to be disregarded as an entity separate from its owner for federal tax purposes.

The information submitted states that X was formed on D1 under the laws of Country. X is a foreign entity eligible to elect to be treated as a disregarded entity for U.S. federal income tax purposes. X was wholly owned by Y, a corporation formed

under the laws of Country, which in turn was wholly owned by Z. X's default status was an association taxable as a corporation for federal tax purposes. X intended to be disregarded as an entity separate from its owner for federal tax purposes effective D1. However, a Form 8832, Entity Classification Election, for X to elect to be disregarded as entity separate from its owner effective D1 was not timely filed. X represents that X relied upon a qualified tax professional to file the election effective D2, but the tax professional failed to file the election effective D2.

Section 301.7701-2(a) generally provides that a business entity is any entity recognized for federal tax purposes that is not properly classified as a trust under § 301.7701-4 or otherwise subject to special treatment under the Internal Revenue Code.

Section 301.7701-3(a) provides that so long as a business entity is not classified as a corporation under § 301.7701-2(b)(1), (3), (4), (5), (6), (7), (8) (an eligible entity), it may elect its classification for federal tax purposes.

Section 301.7701-3(b)(2) provides guidance on the classification of a foreign eligible entity for federal tax purposes. Generally, a foreign eligible entity is treated as an association taxable as a corporation if all members have limited liability, unless the entity makes an election to be treated otherwise.

Section 301.7701-3(c)(1)(i) provides that an eligible entity may elect to be classified other than as provided under § 301.7701-3(b) by filing a Form 8832 with the appropriate service center. Under § 301.7701-3(c)(1)(iii), this election will be effective on the date specified by the entity on Form 8832 or on the date filed if no such date is specified on the election form. The date specified on Form 8832 cannot be more than 75 days prior to the date on which the election is filed and cannot be more than 12 months after the date on which the election is filed.

Section 301.9100-1(c) provides that the Commissioner may grant a reasonable extension of time to make a regulatory election, or a statutory election (but no more than six months except in the case of a taxpayer who is abroad), under all subtitles of the Code, except subtitles E, G, H, and I. Section 301.9100-1(b) defines the term regulatory election as including an election with a deadline prescribed by a regulation published in the Internal Revenue Bulletin.

Sections 301.9100-1 through 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make an election. Section 301.9100-2 provides automatic extensions of time for making certain elections. Section 301.9100-3 provides extensions of time for making elections that do not meet the requirements of § 301.9100-2.

Section 301.9100-3 provides that request for relief under § 301.9100-3 will be granted when the taxpayer provides evidence to establish that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the Government.

Based solely on the facts submitted and representations made, we conclude that the requirements of § 301.9100-3 have been satisfied. Accordingly, X is granted an extension of sixty (60) days from the date of this letter to elect to be disregarded as an entity separate from its owner for federal tax purposes, effective D2. The election should be made by filing Form 8832 with the appropriate service center. A copy of this letter should be attached to the election. As a condition for this late election relief, Z (or, where relevant, Sucessor-in-interest), must file amended federal income tax and information returns, including Forms 5471, Information Return of U.S. Persons With Respect to Certain Foreign Corporations, and Forms 8858, Information Return of U.S. Persons With Respect to Disregarded Entities, for X and Forms 5471 for Y, for Year through the present consistent with X having made a timely election to be treated as an entity to be disregarded from its owner effective D2.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Internal Revenue Code provides that it may not be used or cited as precedent.

Pursuant to a power of attorney on file with this office, a copy of this letter is being sent to X's authorized representative.

Sincerely,

Curtis G. Wilson
Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2):

Copy of this letter
Copy for § 6110 purposes

cc: